

# WOODWARD, COTHRAN & HERNDON

178012

EDWARD M. WOODWARD, JR.  
DARRA W. COTHRAN  
WARREN R. HERNDON, JR.

*Attorneys at Law*  
1200 MAIN STREET, SUITE 600  
POST OFFICE BOX 12399  
COLUMBIA, SOUTH CAROLINA 29211  
TELEPHONE (803) 799-9772 FACSIMILE (803) 799-3256

EDWARD M. WOODWARD, SR.  
(1921-2000)

February 21, 2006

The Honorable Charles L. A. Terreni  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, SC 29211

**DELIVERED BY HAND**

RECEIVED  
2006 FEB 21 AM 11:38  
SC PUBLIC SERVICE  
COMMISSION

Re: Generic Proceeding to Explore a Formal Request for Proposal for Utilities that are  
Considering Alternatives for Adding Generating Capacity  
Docket No. 2005-191-E  
Our File No. 05-7051

Dear Mr. Terreni:

LS Power Associates, LP ("LS Power Associates") develops, owns and operates large-scale power generation projects through a number of wholly-owned subsidiaries, and is a leading independent power producer. LS Power Associates has projects in various stages of development throughout the United States, including projects that could be located in or able to serve customers in South Carolina. The company is a party in proceedings before the South Carolina Public Service Commission in PSC Docket 2005-191-E and is pursuing development opportunities in South Carolina.

For information, LS Power Equity Partners, L.P. ("LS Power Equity Partners"), an affiliate of LS Power Associates, recently agreed to purchase Duke Energy North America's ("Duke") entire fleet of power generation assets outside of the United States Midwest for approximately \$1.5 billion. The assets include approximately 6,200 megawatts of power generation. The transaction has received Federal Energy Regulatory Commission approval and is expected to close before June 2006. Coupled with its development efforts, the Duke transaction demonstrates the extent of LS Power's presence and success in the power industry at a time when certain parties in this proceeding are questioning the viability of the independent power industry. LS Power Associates requests the Commission consider this new information prior to issuing an order in this proceeding. Attached is a copy of a press release issued by Duke announcing the asset sale to LS Power Equity Partners.

The Honorable Charles L. A. Terreni  
February 21, 2006  
Page Two

Please do not hesitate to contact me if you need further information.

Very truly yours,

WOODWARD, COTHRAN & HERNDON

A handwritten signature in cursive script that reads "Darra Cothran". The signature is written in black ink and is positioned below the firm name.

Darra W. Cothran  
dwcothran@wchlaw.com

DWC/bjd

Enclosure.

cc: Len S. Anthony, Esquire  
Kendal Bowman, Esquire  
Richard L. Whitt, Esquire  
Frank R. Ellerbe, III, Esquire  
Shannon Bowyer Hudson, Esquire  
Belton T. Zeigler, Esquire  
Patricia B. Morrison, Esquire  
Scott Elliott, Esquire



News Release  
Jan. 9, 2006

## Duke Energy Announces Sale of DENA Power Generation Assets to LS Power

- **LS Power to purchase entire DENA fleet outside Midwest for approximately \$1.54 billion**
- **Estimated one-time, pre-tax gain on sale of approximately \$330 million**
- **Duke Energy expects net cash proceeds from complete DENA exit to exceed \$500 million**

CHARLOTTE, N.C. – Duke Energy today announced it has signed an agreement with a subsidiary of LS Power Equity Partners (LS Power) to purchase Duke Energy North America's (DENA) entire fleet of power generation assets outside the Midwest for approximately \$1.54 billion, assuming certain performance measures are met, and no less than approximately \$1.48 billion.

Based on the minimum purchase price, Duke Energy anticipates a one-time, pre-tax gain on the sale of approximately \$330 million which reflects a write-up of the assets. The transaction will have no impact to ongoing earnings as the assets to be purchased by LS Power are currently classified as discontinued operations. The company anticipates any cash tax impact from this transaction would be minimal.

The assets include approximately 6,200 megawatts of power generation, located in the western and northeast United States. The transaction is subject to Federal Energy Regulatory Commission and Hart-Scott-Rodino approvals and is expected to close before June 2006.

On Sept. 13, 2005, Duke Energy announced plans to pursue the sale or other disposition of substantially all of DENA's physical and commercial assets outside the midwestern United States. On Nov. 18, 2005, Duke announced it would transfer substantially all of DENA's commercial portfolio of derivatives contracts to Barclays Capital, the investment banking division of Barclays Bank PLC.

Proceeds from the LS Power transaction and Barclays Capital's acquisition of the DENA book, combined with ongoing efforts to exit the remaining DENA contracts, are expected to yield net cash to Duke Energy in excess of \$500 million.

"Completing the exit from DENA's business is a major objective for 2006," said Paul Anderson, chairman of the board and chief executive officer. "This agreement to sell DENA's entire fleet outside the Midwest puts us well on our way only nine days into the year. Additionally, we continue to expect net cash proceeds from the DENA exit to exceed \$500 million.

"To date, we have unwound more than 80 percent of the DENA contracts not included in the Barclays deal and we are confident we'll be in a position to complete the DENA exit by midyear, allowing our management team to focus fully on the Cinergy merger and Duke Energy's future," Anderson continued.

DENA's physical generation assets to be sold to LS Power include:

- Arlington Valley (Maricopa County, Ariz.) – 570 megawatts, natural gas-fired, combined-cycle facility
- Griffith Energy Facility (Mohave County, Ariz.) – 300 megawatts (reflects Duke Energy's 50 percent ownership), natural gas-fired, combined-cycle facility
- South Bay (Chula Vista, Calif.) – 700 megawatts, conventional steam facility (10 year lease)
- Morro Bay (Morro Bay, Calif.) – 1,002 megawatts, conventional steam facility
- Moss Landing (Moss Landing, Calif.) – 2,538 megawatts, conventional steam and natural gas-fired, combined-cycle facility
- Oakland Power Plant (Oakland, Calif.) – 165 megawatts, simple-cycle, fuel-oil facility

- Maine Independence (Veazie, Maine) – 520 megawatts, combined-cycle facility
- Bridgeport Energy (Bridgeport, Conn.) – 326 megawatts (reflects Duke Energy's 67 percent ownership), combined-cycle facility.

LS Power Equity Partners is a member of the LS Power Group. Founded in 1990, the LS Power Group is a fully integrated investor, developer and management team focused exclusively on the power sector. Please contact Darpan Kapadia, managing director at the LS Power Group, for more information at 212/615-3456.

Duke Energy is a diversified energy company with a portfolio of natural gas and electric businesses, both regulated and unregulated, and an affiliated real estate company. Duke Energy supplies, delivers and processes energy for customers in the Americas. Headquartered in Charlotte, N.C., Duke Energy is a Fortune 500 company traded on the New York Stock Exchange under the symbol DUK. More information about the company is available on the Internet at: <http://www.duke-energy.com>.

This release includes statements that do not directly or exclusively relate to historical facts. Such statements are "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Those statements represent Duke Energy's intentions, plans, expectations, assumptions and beliefs about future events and are subject to risks, uncertainties and other factors, many of which are outside Duke Energy's control and could cause actual results to differ materially from the results expressed or implied by those forward-looking statements. Those factors include: state, federal and foreign legislative and regulatory initiatives that affect cost and investment recovery, have an impact on rate structures, and affect the speed at and degree to which competition enters the electric and natural gas industries; the outcomes of litigation and regulatory investigations, proceedings or inquiries; the weather and other natural phenomena; the timing and extent of changes in commodity prices, interest rates and foreign currency exchange rates; general economic conditions, including any potential effects arising from terrorist attacks and any consequential hostilities or other hostilities; changes in environmental and other laws and regulations to which Duke Energy and its subsidiaries are subject or other external factors over which Duke Energy has no control; the effect of accounting pronouncements issued periodically by accounting standard-setting bodies; the amount of collateral required to be posted from time to time in Duke Energy's transactions; competition and regulatory limitations affecting the success of Duke Energy's divestiture plans, including the prices at which Duke Energy is able to sell its assets; the performance of electric generation, pipeline and gas processing facilities; the extent of success in connecting natural gas supplies to gathering and processing systems and in connecting and expanding gas and electric markets; conditions of the capital markets and equity markets during the periods covered by the forward-looking statements; and opportunities for Duke Energy's business units, including the timing and success of efforts to develop domestic and international power, pipeline, gathering, liquefied natural gas, processing and other infrastructure projects.

In light of these risks, uncertainties and assumptions, the events described in the forward-looking statements might not occur or might occur to a different extent or at a different time than Duke Energy has described. Duke Energy undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

**Contact:** Media Contact: Peter Sheffield  
**Phone:** 980/373-4503  
**24-Hour Phone:** 704/382-8333  
**e-mail:** [pvsheffield@duke-energy.com](mailto:pvsheffield@duke-energy.com)

**Contact:** Analyst Contact: Julie Dill  
**Phone:** 980/373-4332  
**24-Hour Phone:** n/a

**e-mail:**           jadill@duke-energy.com